

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0265
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 4 DP 987, 85 Brighton Street CURL CURL NSW 2096
Proposed Development:	Modification of Development Consent DA2015/0208 granted for Alterations and additions to a dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Scott Andrew McKenzie Lynette Joy Wright
Applicant:	Scott Andrew McKenzie Lynette Joy Wright

Application lodged:	24/11/2015
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	15/12/2015 to 22/01/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

SITE DESCRIPTION

Property Description:	Lot 4 DP 987 , 85 Brighton Street CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Brighton Street, Curl Curl. The site is regular in shape with a frontage of 15.28m along Brighton Street and a depth of 45.72m. The site has a surveyed area of 698.5m². The site is located within the R2 Low Density Residential zone and accommodates a single storey residential dwelling that is currently under construction. Surrounding development consists of other detached residential dwellings of similar size and construction. The site experiences a northward slope of 3.07m rising from Brighton Street to the rear of the site. The site currently has little vegetation given the construction phase it is in. Surrounding dwellings have a range of flora of varying sizes.

Map:



SITE HISTORY

DA2010/1743 for a tree application completed on 28 October 2010.

DA2014/1204 for a tree application completed on 25 November 2014.

DA2015/0006 for a tree application completed on 14 January 2015.

DA2015/0208 for alterations and additions approved by Council on 13 May 2015.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

- Reconfiguration of the approved rear deck.
- An expansion of the approved swimming pool.
- A raised lawn area to the rear of the deck to be level with the deck and swimming pool.
- Ancillary retaining walls supporting the raised garden with steps leading to the natural ground level further into the rear yard.
- The erection of privacy screens in the rear of the property.
- Re-positioning, reconfiguration and reduction of approved windows to the dwelling.
- Reconfiguration of the existing landscape plan.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2015/0208, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is

Section 96(1A) - Other Modifications	Comments
	considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2015/0208.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Public Exhibition" in this report.

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.

Section 79C 'Matters for Consideration'	Comments
	<u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

No referrals were sent in relation to this application

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

Nil

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	6.83m	Swimming Pool & Raised Lawn	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	4.0m	4.0m	Yes

B3 Side Boundary Envelope	5.0m	No encroachment	No encroachment	Yes
	5.0m	No encroachment	No encroachment	Yes
B5 Side Boundary Setbacks	East - 0.9m	1.6m	1.4m	Yes
	West - 0.9m	1.6m	1.6m	Yes
B7 Front Boundary Setbacks	6.5m	6.9m	6.9m	Yes
B9 Rear Boundary Setbacks	6.0m	6.0m	6.75m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	41.75%	43.53%	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes

Detailed Assessment

D8 Privacy

The subject site and neighbouring site have existing privacy issues due to the natural north-west slope of the land. As a part of this application, the introduction of privacy screens, planting and hedge planting will significantly reduce the existing privacy impacts resultant of the topography and improve the privacy and amenity of the subject and neighbouring dwellings to a reasonable level.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval Modification Application No. Mod2015/0265 for Modification of Development Consent DA2015/0208 granted for Alterations and additions to a dwelling house on land at Lot 4 DP 987,85 Brighton Street, CURL CURL, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
JB00141111-3 Rev. C	28 October 2015	Engineering Investigation Services

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

e) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Revised Landscaping Plans Ver5	23 November 2015	Scott McKenzie

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

B. Add Condition No.19A - Modification of Consent - Required Planting to read as follows:

Screen planting is to be provided in the area between the boundary fence and privacy screen on the western boundary along the raised lawn area.

The selected planting is to comprise native species capable of attaining a minimum height of 2 metres at maturity.

Plants are to be planted at minimum 1.5 metre centres and be of a minimum pot size of 25 litres at planting.

Reason: In order to maintain privacy to the adjoining property. (DACPLC06)

C. Modify Condition No.12 - Modification of Consent - Privacy Screen to read as follows:

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the raised lawn located off the rear deck as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining property. (DACPLC06)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Adam Mitchell, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2015/371426	Notification map	15/12/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/352721	Modification Application Form	26/11/2015
 2015/352728	Applicant Details	26/11/2015
 2015/352732	Plans - Notification	26/11/2015
 2015/352741	Report Statement of Environmental Effects - Revised	26/11/2015
 2015/352755	Plans - Architectural	26/11/2015
 2015/352760	Report BASIX Certificate	26/11/2015
 2015/354770	General Query - Advice - 85 Brighton Street Curl Curl	29/11/2015
 2015/363963	File Cover	08/12/2015
 2015/363966	Referral to AUSGRID - SEPP - Infrastructure 2007	08/12/2015
 2015/371423	Notification letter 10	15/12/2015
 2015/371426	Notification map	15/12/2015